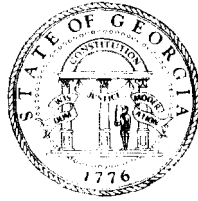


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STAN WISE



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MAY 17 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

DATE: May 16, 1996

TO: Office of Secretary
Federal Communications Commission
Washington, D.C. 20554

FROM: Georgia Public Service Commission

RE: **Notice of Proposed Rulemaking and Request for Comments in the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996**

The following are the comments of the Georgia Public Service Commission regarding the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996.

Our Commission appreciates this opportunity to participate in this forum and to inform the Federal Communications Commission of our concerns regarding the implementation of the Local Competition Provisions in the Telecommunications Act of 1996.

The Georgia Public Service Commission will be closely following this process as it develops in the coming months.

Sincerely,

B. B. Knowles
Director of Utilities

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of	}	
	}	
Implementation of the	}	CC DOCKET NO. 96-98
Local Competition Provisions in	}	
The Telecommunications Act of 1996	}	

**COMMENTS OF THE
GEORGIA PUBLIC SERVICE COMMISSION
ON NOTICE OF PROPOSED RULEMAKING**

244 Washington Street, S.W.
Atlanta, Georgia 30334-5701
(404) 656-4501
May 16, 1996

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OFFICE OF SECRETARY

CC Docket No. 96-98

I. Introduction

1

II. Executive Summary

In addition to these comments as filed, the GPSC adopts and supports the comments of the National Association of Regulatory Utility Commissioners (NARUC) filed in this proceeding. The GPSC agrees with the objectives of the Federal Act but does not believe that detailed rules envisioned by the FCC will produce the intended results. The GPSC respectfully submits that an overly detailed rulemaking would not reflect the intent of Congress, would exceed the statutory authority of the FCC and would produce results contrary even to the intent of the FCC.

As with most other states, Georgia has in the past few years adopted a state level telecommunications competition statute. Since the Georgia Act became law in July, 1995, the GPSC has opened 42 dockets to implement its provisions. Knowing that similar actions have been undertaken by other state commissions, we discuss some of our more significant dockets as a modest illustration of how state efforts to foster competition are consistent with the Federal Act and argue against proscriptive federal rulemaking.

Specific federal standards are appropriate in certain limited circumstances. For example, numbering plan administration has provided centralized administration while giving states the flexibility to develop specific solutions. Similarly, national standards on issues such as technical feasibility could be appropriate if the states retain clear authority to exceed the minimum standards established by the FCC.

However, in other instances, detailed national policies would likely hinder, not facilitate, the growth of competition. The GPSC is most concerned over proposals to establish national

pricing standards and costing methodologies for interconnection, unbundling, and termination of traffic. In addition to the jurisdictional problems mentioned earlier, the GPSC believes that this approach will not work or at least not work well.

III. Georgia's Statute and Dockets Provide Examples of State Efforts to Foster Competition Consistent With the Federal Act and Argue Against Proscriptive Federal Rulemaking.

A. Certification of Alternate Local Exchange Carriers (ALEC's)

In order to further competition in the provision of local service, Georgia's Telecommunications and Competition Development Act of 1995 (O.C.G.A. Sec. 46-5-160, et seq.) authorizes the GPSC to issue multiple certificates of authority for local exchange services upon a showing that an applicant possesses satisfactory financial and technical capability.

As of the date of these comments, the GPSC has received 19 applications. Certification has been granted to AT&T Communications of the Southern States, Inc., MCI Metro Access Transmission Services, Inc., MFS Intelenet of Georgia, Inc., Southern Multimedia Communications, Inc. (a subsidiary of US West), Business Telecom, Inc. and Georgia Comm South, Inc. Decisions regarding the remaining applications will be made within approximately 90 days. Projected service start up date for those applicants who have been granted certification is August 1, 1996.

B. Resale, Interconnection and Unbundling

1. GPSC NOI / NPRM (Docket No. 5958-U)

The GPSC has initiated several actions regarding resale, interconnection and unbundling. On August 15, 1995, the GPSC issued its Notice of Inquiry regarding these issues, a copy of which is attached hereto as Appendix "A". On February 6, 1996, prior to the passage of the

Federal Act, the GPSC issued its Notice of Proposed Rulemaking (NPRM) which outlined a procedure for implementing the provisions of the Georgia Act governing resale, interconnection and unbundling, a copy of which is attached hereto as Appendix "B". The GPSC has undertaken a review of its state NPRM so as to ensure full consistency with the since-passed Federal Act.

2. AT&T Petition (Docket No. 6352-U)

On December 21, 1995, AT&T Communications of the Southern States, Inc. filed a petition with the GPSC to establish resale rules, rates, terms and conditions and the initial requirements for unbundling. The Procedural and Scheduling Order, outlining the issues raised in AT&T's petition, is attached hereto as Appendix "C". The Staff has submitted a recommendation, a copy of which is attached hereto as Appendix "D". Decision in this matter is scheduled for May 21, 1996.

3. MFS / MCI Petitions (Dockets Nos. 6415-U, 6537-U)

On January 23, 1996, MFS Intelenet of Georgia, Inc. petitioned for provision of non-discriminatory unbundled loops and interconnection rates, terms and conditions. In response to MFS's petition, BellSouth Telecommunications, Inc. filed a comprehensive local interconnection tariff on January 25, 1996. On March 25, 1996, MCImetro filed a similar petition regarding interconnection and unbundling. On May 14, 1996, MCImetro and BellSouth filed a negotiated agreement which resolved a significant number of interconnection issues. A copy is attached hereto as Appendix "E". A decision regarding all matters is scheduled for July 2, 1996.

C. Local Telephone Number Portability (Docket No. 5840-U)

The GPSC, recognizing the importance of telephone number portability in the establishment of competition in the local exchange market, initiated a series of technical

workshops beginning August 16, 1995. (See Appendix "F".) The workshops were results-oriented to establish a framework for reaching consensus among the telecommunications providers in the state. Following the workshop process on November 7, 1995, the GPSC issued its Notice of Proposed Rulemaking. (See Appendix "G".)

The workshop yielded the establishment of a Selection Committee which consisted of various segments of the Georgia telecommunications industry. On February 29, 1996, the GPSC issued an order, becoming one of the first state commissions to adopt a call model and detailed implementation plan to establish a permanent number portability solution. (See Appendix "H".) The projected implementation date is June, 1997.

IV. Federal / State Jurisdiction

The GPSC supports a new paradigm of federal & state regulation which parallels the existing separation of duties and jurisdictions, but which brings the benefits of competition to the citizens of the United States. The FCC national rules can best be crafted to assist the states in carrying out their responsibility for arbitrating disputes by crafting the procedural and goal-oriented rules. The GPSC approach is the most cost-effective and efficient way to implement the local competition provisions in the Federal Act.

A. Examples Where Minimum Federal Rules or Standards Are Appropriate

Some general federal rules are necessary. These rules take the form of guidelines, goals, and minimum requirements. Some examples were discussed below:

1. Minimum Standards for Unbundling, Technical Feasibility of Interconnection, and Duties of Parties to Negotiate.

The Federal Act clearly gives GPSC or state Commissions a significant role as

dispute arbitrator and the GPSC stands ready to fulfill that role. Lingering disputes over the terms and conditions of interconnection create the potential for incumbent LECs to delay entry. However, the GPSC believes that such disputes are just as likely to be generated by the presence of the type of rules envisioned by the FCC as it will be by nonspecific rules and general standards. Disputes should not be allowed to linger, and specific time limits for the resolution of the disputes should be set. The Federal Act already has time limits spelled out for some items. The GPSC believes we can meet those deadlines without detailed, specific rules. It is our opinion that detailed, specific rules would act as an impediment.

The areas which the GPSC believes general guidelines or minimum rules could be helpful to the states are unbundling, technical feasibility of interconnection, and duties of parties to negotiate.

Unbundling should be a bona fide need evidenced by an application for the unbundled service rather than an exhaustive list of elements which may or may not meet anyone's needs. Any FCC rule should be stated as a guideline or minimum and should allow voluntary bundling by the customer.

Similarly, the technical feasibility of interconnection rules should be flexible and capable of expansion. Rules should be procedural such as the affirmative obligation on incumbent LECs cited in NPRM ¶¶ 56 and 58. Procedural rules such as "burden of proof" guidelines would be appropriate.

The duties of parties to negotiate is also an area where general guidelines and procedures could be useful. For example, NPRM paragraph 47 mentions certain possible standards of conduct which could be issued as evidence of bad faith negotiations.

B. Examples Where Overriding Federal Rules or Standards are Inappropriate.

1. Costing and Pricing Models

The GPSC expresses concern about the possible establishment of national standard costing and pricing models. As stated in advisory comments submitted to the GPSC:

The administrative procedures of the State PUC's also provide them with an important comparative advantage. Cost studies can be complex and the cost analyst must make certain assumptions when completing a study. The suppositions and underlying data are controversial and merit close analysis by interested parties. The State Commissions have relied on litigated proceedings in order to flush out the underlying theories of different methodologies and data inputs. The FCC, on the other hand, has little recent experience with litigated cases. During the past decade, parties have filed pleadings but there has been comparatively little opportunity for parties to engage in an in-depth review of the incremental cost studies filed by carriers. Whereas 251(c)(3) requires that economic cost studies be used to judge the reasonableness of rates, and since the Commission has relatively little experience in reviewing economic cost studies, it is essential that the States remain the primary agency for evaluating the merits of the cost estimates. Therefore, the Commission should not select a costing model; rather they should establish costing principles.

Draft Comments of David Gabel, Ph.D., submitted to the National Regulatory Research Institute under contract with the Georgia Public Service Commission.

The GPSC agrees with this assessment.

2. Resale Services and Conditions

The GPSC believes that the resale services and conditions are primarily a state matter which should be reserved to the states. Setting of intrastate rates is the jurisdiction of the state commissions and most resold services will be intrastate services. The Federal Act cannot be correctly interpreted to confer intrastate rate setting jurisdiction upon the FCC. This is one of the prime areas where overriding federal rules would be inappropriate.


V. Conclusion

The countervailing view contained in NPRM paragraph 33 should prevail. Diversity of geography and demographics exists within and among states. Detailed rules could not fit the diverse needs of our state, much less the rest of the nation. The GPSC does not believe that by declining to adopt explicit rules the FCC would be permitting states to set inconsistent priorities and timetables for requiring incumbent LECs to offer interconnection and unbundled network elements. The adoption of goal-oriented and procedural rules by the FCC will be sufficient to ensure reasonably similar priorities and timetables for interconnection.

The GPSC's believes that competition will work and that the Federal Act prescribes a process by which it can work. The heart of the Federal Act is the provision for the parties to negotiate. Private parties negotiating an agreement for the provision and payment for goods and services is the essence of a competitive market. See Section 252(a) and the BellSouth-MCI metro Agreement, attached hereto as Appendix "E".

Overly proscriptive rules typically encourage litigation, delay tactics and stifle rather than simplify negotiations. Such rules ~~can~~ chill negotiations and force parties to accept "one size fits all" solutions which are suboptimal at best. Open negotiations will produce the best results for everyone.

The GPSC appreciates the opportunity to submit these comments. Respectfully submitted this the 16th day of May, 1996.


B. B. Knowles
Director of Utilities
Georgia Public Service Commission


Dave Baker
Chairman
Georgia Public Service Commission

DOCKET# 5958

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AUG 15 1995

Executive Secretary
Georgia Public Service Commission

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APPENDIX A

Docket No. 5958-U

NOTICE OF INQUIRY FOR PROPOSED RULEMAKING

In re: GPSC Docket No. 5958-U, Interconnection, Unbundling and Resale of Telecommunications Services under Section 2 of the Telecommunications and Competition Development Act of 1995

This matter comes before the Commission as one of its tasks in implementing Section 2 of the Telecommunications and Competition Development Act of 1995 (S.B. 137). S.B. 137 contains several provisions regarding interconnection, unbundling and resale of telecommunications services as a part of implementing alternative regulation and competition for local exchange services.¹ Therefore, the Commission determines that it is appropriate to issue this Notice of Inquiry ("NOI") for Proposed Rulemaking. All interested parties are requested to file their comments and suggestions in response to this NOI no later than September 18, 1995.

This NOI seeks these comments and suggestions from interested parties as a preliminary step in order to assist the Commission and its Staff in the development of proposed rules. Subsequently,

¹ The Commission has previously adopted interim filing requirements for notices of election of alternative regulation, and for new certificates of authority, both pursuant to Section 2 of S.B. 137. These were adopted in GPSC Dockets No. 5777-U and 5778-U, respectively (both issued May 16, 1995). The Commission has also adopted interim tariff filing requirements for companies electing alternative regulation and companies obtaining new certificates of authority, in GPSC Docket No. 5833-U (issued June 8, 1995).

In addition, the Commission has issued notices of inquiry regarding a Universal Access Fund under S.B. 137 (in GPSC Docket No. 5825-U, NOI issued June 9, 1995), and regarding pricing guidelines for telecommunications services to end users under S.B. 137 (in GPSC Docket No. 5882-U, NOI issued June 21, 1995). Issues pertaining to portability are being addressed in GPSC Docket No. 5840-U.

Southern Bell has elected alternative regulation, to be effective August 5, 1995, in GPSC Docket No. 5946-U. Several companies have applied for competing local certificates of authority, including MFS (Docket No. 5836-U), Southern Multimedia (Docket No. 5943-U), MCI Metro (Docket No. 5944-U), and Georgia Comm South (Docket No. 5947-U).

Docket No. 5958-U

Page 1 of 9

the Commission expects to issue a Notice of Proposed Rulemaking in this docket pursuant to the rulemaking procedures of the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-4. Interested parties will then have a minimum 30-day comment period before the Commission considers whether to adopt either such proposed rules or any changes.²

Scope of this NOI Review

In this NOI phase the Commission seeks comments and suggestions directed specifically toward the issues of interconnection, unbundling and resale pursuant to Section 2 of the Telecommunications and Competition Development Act of 1995 (S.B. 137).

The Commission will strive for simplicity and ease of administration and compliance in the rules ultimately adopted following the formal rulemaking phase of this docket. However, in order to reduce these matters to achieve these goals, it is necessary to examine many issues at the outset.

Definitions

1. Should any definition of Basic Services, or test used to define Basic Services, expressly include all unbundled open network architecture services that utilize essential facilities and are furnished to other telecommunications service providers? Should it also include underlying network services that are used by an Incumbent LEC (*i.e.*, a local exchange company ("LEC") that held a certificate of authority issued by the Georgia Public Service Commission prior to July 1, 1995) in furnishing discretionary services and required to be unbundled?
2. Should the Commission adopt a definition, or a test used to define "Essential Facilities?" If so, one possible definition would be any asset or resource of an Incumbent LEC or any affiliate thereof that is not feasibly or economically available to, or replicable by, a competing telecommunications service provider, and whose use by the Incumbent LEC for the provision of services classified as "competitive" confers an advantage to the provision of such services that would not be available to the competing telecommunications service provider without access to such asset or resource of the Incumbent LEC. Is this an appropriate definition? Why or why not; what different definition would be appropriate, and why?
3. Should the Commission adopt a definition, or a test used to define "same, similar or substitute" with respect to the provision of telecommunications services? If so, one possible definition would be that a service or product shall not be deemed to have the same or similar capabilities as service provided by an Incumbent LEC, or to be a similar or a substitute service or product, unless (1) an unaffiliated provider is able to offer the alternative service or product at substantially equivalent rates, terms and conditions; (2) the service or product is technically capable

² If the Commission at that time wishes to make any changes in the proposed rules, then the Notice of Proposed Rulemaking will be reissued with such changes for an additional minimum 30-day comment period.

of providing the same functions as the Incumbent LEC's service to which it is being compared; and (3) customers are likely to perceive the services as similar or identical. Is this an appropriate definition? Why or why not; what different definition would be appropriate, and why?

4. Should the Commission adopt a definition, or a test used to define "Service"? If so, one possible definition would be that the term "service" shall include any discrete, identifiable telecommunications feature, function, capability, essential facility, or combination thereof, either specifically delineated as such in the Incumbent LEC's tariff and/or price lists, or determined by order of the Commission to be economically and technically capable of being furnished by the Incumbent LEC on an unbundled basis as a basic telecommunications service. Is this an appropriate definition? Why or why not; what different definition would be appropriate, and why?

5. Should the Commission adopt a definition, or a test used to define "Unbundling"? If so, one possible definition would be that "unbundling" means the offering of a service on a stand-alone basis, without any requirement that the purchaser also take or purchase any other services. Is this an appropriate definition? Why or why not; what different definition would be appropriate, and why?

6. "Interconnection service" is defined by O.C.G.A. § 46-5-162(8) as the service of providing access to a local exchange company's facilities for the purpose of enabling another telecommunications company to originate or terminate telecommunications service. Should the Commission adopt any additional definition(s) or test(s) to define "interconnection"? If so, what would be an appropriate definition, and why?

7. Should the Commission adopt a definition, or a test used to define "Resale"? If so, what definition would be appropriate, and why?

8. Should the Commission adopt any other definitions for purposes of a rulemaking regarding interconnection, unbundling and resale?

Interconnection Issues

9. To what extent, if any, should rules promulgated under the Telecommunications and Competition Development Act of 1995 distinguish between interconnection to the networks and network services of:

- a) Tier 1 and Tier 2 local exchange companies (other than the statutorily different timelines for switched access reductions to parity with interstate levels)?
- b) Incumbent LECs and newly certificated LECs?

10. How should the Commission implement the rate adjustment provisions of O.C.G.A. § 46-5-166(f)(2) applicable to reductions in switched access revenues of Tier 2 companies?

11. Shown below are possible general standards and provisions for interconnection:

- a) An LEC that is requested to provide interconnection shall enter into good-faith negotiations with the requesting company within 15 days after receiving the request, and shall endeavor to conclude the negotiations with an interconnection agreement within 60 days after receiving the request.
- b) An agreement for interconnection to An LEC's Essential Facilities shall provide for:
 - 1) nondiscriminatory access on an unbundled basis to the network functions and services of the LEC's telecommunications network (including switching software);
 - 2) nondiscriminatory access on an unbundled basis to any of the LEC's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carriers' networks;
 - 3) interconnection to the LEC's telecommunications facilities and services at any technically feasible point within the LEC's network;
 - 4) interconnection that is at least equal in type, quality, and price (on a per unit basis or otherwise) to that provided by the LEC to itself or to any subsidiary, affiliate, or any other party to which the LEC provides interconnection;
 - 5) nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the LEC at just and reasonable rates;
 - 6) telecommunications services and network functions of the LEC to be available to the telecommunications company on an unbundled basis without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services;
 - 7) reciprocal compensation arrangements for the origination and termination of telecommunications;

- 8) reasonable public notice of changes in the information necessary for the transmission and routing of services using that LEC's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and
 - 9) a schedule of itemized charges and conditions for each service, facility, or function provided under the agreement.
- c) Upon receiving a request for interconnection, An LEC may meet its interconnection obligations by negotiating and entering into a binding agreement with the telecommunications company seeking interconnection. Any agreement shall include a schedule of itemized charges for each service, facility, or function included in the agreement.
- d) An LEC shall make available any service, facility, or function provided from Essential Facilities under an interconnection agreement to which it is a party to any other telecommunications company that requests such interconnection upon the same terms and conditions as those provided in the agreement.
- e) The LEC shall provide a list of such interconnection services with periodic updates. Nondiscriminatory access shall be provided to 911 and E911 services; directory assistance services to allow other companies' customers to obtain telephone numbers; operator call completion services; "white pages" directory listings for customers of other companies' telephone exchange service; databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion; and whatever services or information may be necessary to allow the requesting company to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.
- f) The LEC shall fulfill any requests from an unaffiliated entity for exchange access service within a period of time no longer than that in which it provides such exchange access service to itself or to its affiliate(s), and shall provide exchange access service of a quality that meets or exceeds the quality of exchange access service provided to itself or its affiliate(s). The LEC:
- 1) shall make available to other telecommunications companies any facilities, services, or information concerning its provision of exchange access service on the same terms and conditions that it provides such facilities, services or information to its affiliate(s).

- 2) shall charge its affiliate(s) and impute to itself the same rates for intrastate access service that it charges unaffiliated telecommunications companies for such service.

Are these appropriate general standards and provisions? Why or why not; what different standards and provisions would be appropriate, and why? How would the Commission implement and enforce appropriate standards and provisions?

Unbundling Issues

12. To what extent, if any, should rules promulgated under the Telecommunications and Competition Development Act of 1995 distinguish between unbundling of the services of Tier 1 and Tier 2 local exchange companies? To what extent should such rules require the unbundling of local exchange companies' services?

13. What functional differences, if any, exist between unbundling for purposes of (a) interconnection; (b) providing switched access services; (c) making local exchange services available for resale?

14. Who may request unbundled services, or submit an unbundling request? May an entity that is not a certificated telecommunications company purchase unbundled services, or submit an unbundling request?

15. Who is or should be required to unbundle? That is, are there any companies other than Incumbent LECs who should be required to unbundle their services? If so, what types of companies, what services and for what purposes (e.g., interconnection)?

16. Shown below are possible general standards and provisions for unbundling:

- a) No non-competitive service may be used by or bundled with a competitive service unless that non-competitive service is offered on a stand-alone basis at the same price, terms and conditions as are bundled with, imputed to, used by and/or offered to users of the competitive service.
- b) All features, functions, capabilities and essential facilities offered by an Incumbent LEC shall be made available to any other provider at the same rates, terms and conditions that the Incumbent LEC makes available to its services or affiliated companies.
- c) In the event that an existing competitive service utilizes any feature or function furnished jointly with basic and/or discretionary services by means of common network and/or organizational resources and for which no

tariff rate presently exists, the Incumbent LEC shall implement a good faith unbundling request plan.

- d) The Incumbent LEC shall provide a list of such services with periodic updates.

Are these appropriate general standards and provisions? Why or why not; what different standards and provisions would be appropriate, and why? How would the Commission implement and enforce appropriate standards and provisions?

17. Another, potentially alternative provision for nondiscrimination safeguards relating to unbundling would provide that an Incumbent LEC:

- a) may not discriminate between itself or its affiliate and any other telecommunications company in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards;
- b) may not provide any goods, services, facilities, or information to itself or its affiliate unless the goods, services, facilities, or information are made available to other persons on reasonable and nondiscriminatory terms and conditions, unbundled to the smallest element that is technically feasible and economically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of the LEC; and
- c) shall account for all such transactions with itself and any affiliate(s) in accordance with generally accepted accounting principles.

18. Another potential provision for the unbundling of future services would be to require that, in the event the Incumbent LEC plans to offer a new competitive service that makes use of a particular feature or function that is furnished jointly with basic and/or discretionary services by means of common network and/or organizational resources for which no tariffed rate exists, the Incumbent LEC shall file a tariff whose effective date is not less than ninety (90) days prior to the date at which the Incumbent LEC intends to introduce the competitive service. Other telecommunications companies would then be able to submit requests for the unbundled services. Is this an appropriate provision? Why or why not; what different provision(s) would be appropriate, and why?

19. Should the Commission require that:

- a) local loop transmission from the central office to the customer's premises be unbundled from local switching or other services?

- b) local transport from the trunk side of a wireline local exchange carrier switch be unbundled from switching or other services?
 - c) local switching be unbundled from transport, local loop transmission, or other services?
20. What timetable should the Commission adopt for unbundling under S.B. 137?

General Resale Provisions

21. To what extent, if any, should rules promulgated under the Telecommunications and Competition Development Act of 1995 permit any restrictions (other than the resale of basic local services supported by the Universal Access Fund being statutorily limited by O.C.G.A. § 46-5-164(e) to users and uses conforming to the basic local services definition in O.C.G.A. § 46-5-162(2)) on the resale of:

- a) Tier 1 local exchange companies' services?
- b) Tier 2 local exchange companies' services?

22. Should resale be considered an absolute requirement imposed on local exchange companies, independent of whether the Commission (a) adopts rules regarding resale? (b) entertains a petition for the authority to purchase for resale purposes? If so, how would the Commission enforce S.B. 137's resale requirements in the absence of formal rules or orders on resale petitions?

23. What resale requirements or restrictions should be incorporated into rules? Which of any such proposed requirements or restrictions are minimal? Should the requirements or restrictions distinguish between basic, discretionary and competitive services?

24. Should any resale requirements or restrictions be applied to telecommunications companies that are not Incumbent LECs? If so, should they differ from resale requirements or restrictions applied to Incumbent LECs (and if so, how)?

Related Matters

25. Should the Commission include in any rulemaking regarding interconnection, unbundling and resale any provisions to protect the confidentiality of proprietary information relating to other common carriers (including resellers), to equipment manufacturers, and to customers? If so, what provisions would be appropriate?

26. Should the Commission consider cost allocation and cross-subsidy issues in the context of a rulemaking on interconnection, unbundling and resale, or in a separate proceeding regarding issues

of cost allocation, cross-subsidy and anticompetitive practices under S.B. 137? If these issues should be resolved in a rulemaking within this docket, what are the minimal goals that the rules should be drafted to meet?

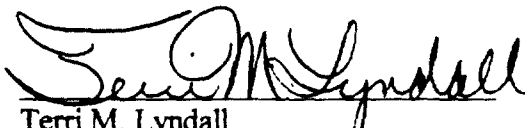
27. What filing requirements and standards (including, but not limited to, burden of proof and guidelines for decisions) should be applied to requests for the Commission to decide specific cases (in the event parties are unable to resolve such matters through good-faith negotiations) relating to:

- a) interconnection?
- b) unbundling of a local exchange company's services?
- c) resale of a local exchange company's services?


What differences, if any, should there be in these matters between Tier 1 and Tier 2 local exchange companies, or between Incumbent LECs and non-Incumbent LECs?

28. What other implementation issues face the Commission with respect to interconnection, unbundling and resale?

29. Please provide any other relevant comments or suggestions you believe the Commission should consider in the development of proposed rules regarding interconnection, unbundling and resale under the Telecommunications and Competition Development Act of 1995.


Terri M. Lyndall
Executive Secretary

August 15, 1995
Date


Bob Durden
Chairman

August 15, 1995
Date

COMMISSIONERS:

DAVE BAKER, CHAIRMAN
ROBERT B. (BOBBY) BAKER
MAC BARBER
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Docket No. 5958-U

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NOTICE OF PROPOSED RULEMAKING

TO: (a) Legislative Counsel - State of Georgia
(b) All Parties of Record - Docket No. 5958-U
(c) All Local Exchange Companies in Georgia
(d) All Interexchange Carriers in Georgia
(e) Consumers' Utility Counsel of Georgia
(f) Affected Commission Staff
(g) All Parties on GPSC Telecommunications and Utility Rulemaking Mailing List

FROM: Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334

IN RE: Consideration of Rules Concerning Interconnection, Resale and Unbundling under the Telecommunications and Competition Development Act of 1995

Executive Secretary
Ga. Public Service Commission

All interested parties are hereby notified pursuant to Ga. Laws 1964, pp. 338, 342, as amended (Official Code of Georgia Annotated ("O.C.G.A.") § 50-13-4 that the Georgia Public Service Commission ("Commission") intends to consider the adoption of a proposed rule concerning Interconnection, Resale and Unbundling under the Telecommunications and Competition Development Act of 1995 (Section 2 of S.B. 137), O.C.G.A. § 46-5-160 et seq, and in particular O.C.G.A. § 46-5-167.

The Commission proposes that the rule become effective as provided by law twenty days after approval in the regularly scheduled Administrative Session on April 2, 1996 and subsequent filing with the Secretary of State.

Docket No. 5958-U

I. NOTICE OF PROPOSED RULEMAKING

A. Introduction and Jurisdiction

The Georgia Public Service Commission is charged with the implementation and administration of Georgia's new Telecommunications and Competition Development Act of 1995, O.C.G.A. § 46-5-160 et seq. (hereafter "the Act"). As a part of this implementation, the Commission finds it appropriate to issue a new rule relating to Interconnection, Resale and Unbundling.

Pursuant to O.C.G.A. § 46-5-164(a), all local exchange companies shall permit interconnection with other certificate local exchange companies. The rates, terms and conditions for such interconnection services shall be negotiated in good faith between the providers and filed with the Commission. In the event that such rates, terms or conditions cannot be negotiated by the parties, the Commission shall determine such.

The Act at O.C.G.A. § 46-5-164(e) states that the Commission is authorized to allow exchange companies to resale the service purchased from other local exchange companies. In cases where the purchase or resale of services purchased is authorized by the Commission, the Commission shall determine the reasonable rates, terms and conditions for such.

In addition, the Act at O.C.G.A. § 46-5-164(d) states that interconnection service shall be provided for intrastate service on an unbundled basis similar to that required by the Federal Communication Committee ("FCC") for service under the FCC's jurisdiction.

B. Synopsis

The primary purpose of the proposed rule is to implement the requirements of Senate Bill 137 relating to Interconnection, Resale and Unbundling.

This proposed rule establishes a process for resolving complaints regarding interconnection and unbundling arrangements; and initiates a hearing process to collect evidence to establish rates, terms or conditions regarding the resale of local exchange services.

PROPOSED RULE

RULES
OF
GEORGIA PUBLIC SERVICE COMMISSION
515-12 TELEPHONE SERVICE
CHAPTER 515-12-2
TELEPHONE SERVICE COMPETITION

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515-12-2-.05 Interconnection, Resale and Unbundling

(1) INTERCONNECTION.

(a) General Requirements.

1. Within fifteen (15) days after receipt of a bona fide request from a certificated LEC, a LEC shall enter good faith negotiations seeking to establish the reasonable rates, terms and conditions for such interconnection.
2. Any agreement reached between two (2) LECs shall not unreasonably discriminate between similarly situated providers.
3. The negotiating LECs shall follow the procedures set forth in subsection 2. In the event that the affected LECs are unable to negotiate the rates, terms and conditions for interconnection, either LEC may seek Commission involvement by filing a complaint that complies with the procedures noted in subsection 3.

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4. Nothing in this Section shall preclude the modification of the requirements contained in subsection 2 upon mutual agreement between the negotiating LECs.

(b) Procedures

1. The interconnection negotiations required by subsection 1 shall conclude within one hundred and thirty five (135) days of the receipt of the bona fide request.
2. Within ten (10) days subsequent to the completion of such negotiations, the LECs shall file with the Commission a schedule of itemized charges and conditions for the interconnection service, setting forth the facility(ies) or function(s) provided for under the agreement.
3. All LECs must file with the Commission on an annual basis any notice of changes in the information necessary for the transmission and routing of services using the LEC's facilities or networks, as well as any other changes that would affect the interoperability of those facilities and network(s).

(c) Complaints

1. The Commission shall establish the rates, terms and conditions of LEC to LEC interconnection only upon the filing of a complaint based on a failed negotiation of an interconnection arrangement contemplated by subsection 1.
2. A complaint filed pursuant to this subsection shall be filed by one of the negotiating LECs within fifteen (15) days of the end of the time period contemplated by subsection 2.a.
3. A complaint filed under this subsection must comply with the requirements of this subsection. Each complaint must include:

- (i) The names, addresses and telephone numbers of the representatives of the certificated LECs involved in the negotiations;
- (ii) A definitive list of those issues requiring resolution;
- (iii) A demonstration by the complaining LEC, based on the specific facts and circumstances, that:
 - (I) the negotiations entered into were not conducted in good faith;
 - (II) the rates, terms and conditions upon which the desired service was offered were unjust, unreasonable or unreasonably discriminated between similarly situated providers;
 - (III) the interconnection service sought was technically and economically feasible; or
 - (IV) any other demonstration that the requested interconnection service would be in the public interest;
- (iv) A certification made by an authorized representative or officer of the complaining LEC that the allegations set forth within the complaint are true and accurate to the best of that individual's knowledge and belief; and
- (v) A certification that the complaint was served upon the LEC for which service is sought and is otherwise in compliance with the Commission's service rules.

4. Response to Complaint

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- (i) Within fifteen (15) days of the service of a complaint filed pursuant to subsection 3, the non-complaining LEC involved in the negotiation must file a response admitting or rejecting in whole or in part the allegations contained in the complaint.
- (ii) The responding LEC must provide in its response affirmative demonstrations that the allegations set forth in the complaint are in error, and/or that a finding in favor of the complainant would not serve the public interest.
- (iii) The response must include a certification made by an authorized representative or officer of the responding LEC that the information set forth within the response is true and accurate to the best of that individual's knowledge and belief.
- (iv) The response must also include a certification that the response was served upon the other LEC and is otherwise in compliance with the Commission's service rules.

5. Commission Action

- (i) The Commission may require either party to provide additional information related to the issues raised by the complaint. The Commission may institute reasonable procedures in order to develop the record necessary to resolve the complaint. The Commission shall make every effort to utilize procedures that minimize the imposition of economic and administrative burdens on the parties and the Commission.